

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

1	UNITED STATES OF AMERICA,)	Docket No. 16 CR 109
2)	
3	Plaintiff,)	Chicago, Illinois
4)	March 5, 2019
5	v.)	10:40 a.m.
6)	
7	RALPH GARCIA,)	
8)	
9	Defendant.)	

VOLUME 1-A

TRANSCRIPT OF PROCEEDINGS - BENCH TRIAL
BEFORE THE HONORABLE ROBERT M. DOW, JR.

APPEARANCES:

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1 (The following proceedings were had in open court.)

2 THE CLERK: 16 CR 109-1, United States of America
3 versus Ralph Garcia. This is for a bench trial.

4 THE COURT: Good morning, everybody.

5 MR. LEGUTKI: Good morning, sir.

6 MR. VANDENBERG: Good morning, your Honor.

7 THE COURT: There's a motion, Mr. Legutki -- I will
8 let you guys state for the record your names, too, so Kris has
9 this all in one place.

10 MR. VANDENBERG: Yes, your Honor. Cornelius
11 Vandenberg and Tim Storino on behalf of the United States.

12 MR. LEGUTKI: Good morning, Judge. My name is John
13 Legutki, last name L-e-g-u-t-k-i. I represent Ralph Garcia,
14 who is to my immediate right.

15 THE COURT: Good morning, everybody. Nice to see you,
16 Mr. Garcia.

17 Before today, I know Mr. Legutki filed a motion last
18 week seeking disclosure of whatever else you guys needed to
19 give him, it looked like. Has that been taken care of?

20 MR. VANDENBERG: Yes, your Honor. We have been
21 producing things throughout the lead up to trial, including up
22 until this morning. Just to point out on the record the fact
23 that the CS made \$59,000, the CS's criminal history, the CS's
24 past drug trafficking. We're aware of our *Giglio* obligations,
25 and we would argue that the motion is moot to that extent, as

1 we believe that we adhered to those.

2 THE COURT: I expected that you would. And,
3 Mr. Legutki, I know this morning you got some further
4 documents. Do you feel satisfied you have everything that
5 you're entitled to?

6 MR. LEGUTKI: I received documents, Judge. I have
7 been in constant communications with both prosecutors. I think
8 they give me information as they receive it or at least
9 discovered it, so if there is anything else, I'm confident they
10 will give it to me.

11 THE COURT: And then the government had filed, I guess
12 it's an intent to provide testimony of a witness who will be
13 given immunity. You've seen that as well?

14 MR. LEGUTKI: I saw that last night, yes, Judge.

15 THE COURT: They have given me a proposed order, which
16 I've left in back, but I understand that witness will be your
17 last witness.

18 MR. VANDENBERG: Yes, your Honor.

19 THE COURT: So we can deal with that this afternoon,
20 then, or tomorrow morning, depending on how well we do today.

21 MR. VANDENBERG: Yes, your Honor.

22 THE COURT: Okay. Very good. Is there anything else
23 you guys needed me to go over with you before we start?

24 MR. VANDENBERG: Just a couple of brief things, your
25 Honor. First of all, outside of the *Giglio* area, in terms of

1 *Jencks* material, just to put on the record that we produced
2 *Jencks* material to defense counsel this morning, namely the
3 grand jury testimony of the case agent who will be testifying
4 in the case.

5 THE COURT: Mm-hmm.

6 MR. VANDENBERG: The other couple of things that we
7 wanted to raise are just logistical issues.

8 THE COURT: Sure.

9 MR. VANDENBERG: Namely -- first of all, the
10 defendants indicated they intend to assert a defense of
11 entrapment, and the government does plan to introduce evidence
12 in its case in chief that rebuts that defense. Primarily in
13 the form of statements made by the defendant that show his
14 predisposition toward relevant criminal conduct. So, the
15 question, your Honor, anticipating the defense will object to
16 some of that material coming in, is just since this is a bench
17 trial, and given the defense, is that something where you would
18 like us to argue through the objections in the order of time,
19 or you would like us to address in post-trial briefing.

20 THE COURT: I will tell you my inclination -- you guys
21 can tell me if you disagree -- is in the interest of
22 efficiency. Ordinarily in a bench trial I just have the
23 objection made contemporaneously the evidence received subject
24 to the objection and then you guys can brief after the trial
25 with a transcript. You know, in the interest of accuracy

1 you'll know exactly what was said, and you guys can apply the
2 case law exactly to what was said in post-trial briefing. And,
3 you know, as a Judge, I have learned that if I strike the
4 testimony, I just cross it out and I decide it based on the
5 rest of the testimony. And that's hard for a jury to do, but
6 I'm confident I can do that.

7 Do you all have any objection to proceeding in that
8 fashion?

9 MR. LEGUTKI: No, your Honor. I think that months ago
10 when we initially discussed a bench trial, that
11 Mr. Storino -- I don't think Mr. Vandenberg was in on the
12 case -- but I think that's how we agreed to proceed.

13 THE COURT: That's my recollection and that's the way
14 I would do it -- I would prefer to do it -- only -- the
15 accuracy is higher if instead of trying to guess what the
16 testimony is going to be, you actually have it on hard copy,
17 black and white, and then you can go ahead and apply the law to
18 what was actually said. And, then, as I said, if it's a motion
19 to strike certain evidence or to, you know, brief your
20 objection, basically, that we can do in the calm light of day
21 with a transcript and then I can make a very accurate decision.

22 Everybody's good with that?

23 MR. VANDENBERG: Yes, your Honor. The government has
24 no objection.

25 THE COURT: And you're good with that as well?

1 MR. LEGUTKI: Fine, sir.

2 THE COURT: If there are things that you hear that are
3 objectionable, just say, "I object for the record," and we'll
4 just take the objection with the post-trial briefing. Okay?

5 MR. LEGUTKI: Very good, sir.

6 THE COURT: Okay. Anything else for the government
7 before we start?

8 MR. VANDENBERG: Yes, your Honor. We intend during
9 the course of the trial to show recordings that were made
10 during the course of the investigation, and we intend to
11 project transcripts of those recordings while they're playing.
12 However, we also have a physical binder, if you would like
13 that, just to have the transcripts.

14 THE COURT: I'm sure it would help for me to follow
15 along if you do have it, and I will just apply the normal jury
16 instruction to my reading and hearing of the transcript. So if
17 what I hear is different from what I read, what I hear is what
18 counts.

19 MR. LEGUTKI: That would probably be my objection,
20 your Honor, to those. I will just say it now for the record.

21 THE COURT: Have you seen the transcripts before?

22 MR. LEGUTKI: I have seen the transcripts. There were
23 a couple of versions of the transcripts along the way, I do
24 believe, and I have seen them. I have reviewed them, Judge.

25 THE COURT: Okay. And are you aware of any

1 discrepancies that -- between what you think you hear and
2 what's transcribed?

3 MR. LEGUTKI: No, Judge. I think -- at least some of
4 the videos, some of the videos are more clear than others. The
5 video is better on some than the others. But I think
6 especially when -- well -- this is a bench. The actual
7 relevant part, the relevant, relevant part of the transaction
8 is only a few minutes, if not more than a few -- it's not long
9 at all.

10 THE COURT: Mm-hmm.

11 MR. LEGUTKI: I have focused on that and it seems to
12 be consistent, Judge.

13 THE COURT: Well, if you don't mind, then, as long as
14 I promise you to apply the rule that I just read to my jury
15 last week, that the transcript is just an aid to following
16 along, and if what you hear is different than what you see in
17 the transcript, what you hear is what counts.

18 MR. LEGUTKI: Fine.

19 THE COURT: Okay. Then I will go ahead and take it.

20 Oh, my. That's a big binder.

21 Okay. So if you hand it to Carolyn.

22 THE CLERK: I will take it.

23 THE COURT: All right. Thank you. And I just
24 realized that I had a -- started a page of notes and I left it
25 in back. So if you don't mind, I'm going to go grab my other

1 notepad and then we'll be ready to go.

2 MR. LEGUTKI: Fine.

3 MR. STORINO: Yes, your Honor.

4 MR. VANDENBERG: Yes, your Honor.

5 THE COURT: Okay. And your first witness is going to
6 take us through lunch and well into the afternoon, right?

7 MR. VANDENBERG: I think that's correct, yes.

8 THE COURT: So what I thought we could do --
9 obviously -- I have a jury deliberating in back. If they have
10 a note or a verdict, we'll take a break. And if they don't,
11 how do you guys feel about going til maybe 12:15? About an
12 hour and a half, especially for a bench, is probably the limits
13 of a court reporter reasonable being trapped in the seat with
14 her hands on the keyboard; does that sound all right for
15 everybody?

16 MR. VANDENBERG: Yes.

17 MR. LEGUTKI: Yes --

18 THE COURT: We will just take an hour break and come
19 back at 1:15, then. All right. Beautiful. Thank you. Just
20 give me one second to grab my other notebook.

21 THE CLERK: All rise. Please be seated.

22 (Brief recess.)

23 THE COURT: All right, folks. So the government
24 will -- I think we agreed that you guys are not going to bother
25 with openings or closings. You're just going to brief it all,

1 right?

2 MR. VANDENBERG: That is correct. That's right,
3 Judge.

4 THE COURT: Okay. So I guess we're ready for the
5 first witness.

6 MR. LEGUTKI: Motion to exclude, Judge. I don't see
7 any other witnesses here, but just a motion to exclude
8 witnesses during the pendency of trial, and no discussion with
9 any witnesses once the trial starts.

10 THE COURT: All right. Standard procedure. No
11 objection?

12 MR. VANDENBERG: No.

13 THE COURT: Okay. Very well. After they're done
14 testifying, they can sit around, though, if they want. Okay.

15 And I think two of the witnesses, Mr. Legutki, as I
16 understand it are 702 expert witnesses.

17 MR. LEGUTKI: Yes.

18 THE COURT: Okay. Thank you. If the government would
19 call the first witness, please.

20 MR. VANDENBERG: Yes, your Honor. The government
21 calls Andrew Karceski to the stand.

22 THE COURT: Mr. Karceski, you are a special agent; is
23 that right?

24 SPECIAL AGENT KARCESKI: I am.

25 THE COURT: Remain standing when you get there and

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1 Carolyn will give you the oath.

2 (Witness sworn.)

3 ANDREW KARCESKI, PLAINTIFF'S WITNESS, SWORN

4 DIRECT EXAMINATION

5 BY MR. VANDENBERG:

6 Q Would you please state your name for the record, spelling
7 your last name?

8 A It's Andrew Karceski, K-a-r-c-e-s-k-i.

9 Q Where are you employed?

10 A I'm employed as a special agent with the Bureau of Alcohol,
11 Tobacco and Firearms.

12 Q How long have you been there?

13 A Approximately 10 years.

14 Q Prior to working at the ATF, what did you do?

15 A I've been in law enforcement pretty much my whole
16 professional life. I started out at the Village of Willowbrook
17 as a police officer. And then I was a police officer in the
18 Village of Bolingbrook for approximately 10 years. I then
19 became a special agent with the Federal Bureau of
20 Investigation. For a short time I was with the City of Elgin,
21 and now I am with the Bureau of Alcohol, Tobacco and Firearms.

22 Q And what is your educational background?

23 A I have a bachelor's degree from Bradley University and I
24 have a law degree from Loyola University.

25 Q How long have you been in law enforcement, did you say?

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1 A Over 25 years.

2 Q In your current position, what types of crime do you
3 investigate?

4 A Firearms, narcotics, street gangs, violent crime.

5 Q What type of training have you gone through with respect to
6 narcotics investigation?

7 A Narcotics, I went through the Cook County Police Academy
8 when I first became a law enforcement officer, and that academy
9 had a block on narcotics identification, street terms, that
10 sort of stuff. I then went through Quantico for the FBI.
11 Again, they have a block on narcotics identification,
12 everything that comes along with narcotics. Also, when I went
13 through the ATF academy, same thing, a block of instruction on
14 narcotics.

15 I also worked for an undercover unit with the Illinois
16 State Police for approximately six years when I was with
17 Bolingbrook and I went to a two-week Drug Enforcement
18 Administration class put on in Springfield. I've been a
19 member -- or I was a member of the Illinois Drug Enforcement
20 Officers Association, which holds a four-day conference every
21 year, and I have been to a number of those, as well as yearly
22 training with the ATF for undercover work that deals with
23 narcotics.

24 Q And what type of training have you gone through with
25 respect to firearms investigations?

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1 A Firearms, again, at each academy would have a separate
2 block on firearms. With the ATF, it is pretty specific. Most
3 of the academy is dedicated to firearm law, identification,
4 that sort of thing. And, then, different conferences and
5 training throughout the years.

6 Q And with respect to street gang involvement with narcotics
7 trafficking and firearms trafficking, what sort of training
8 have you gone through for that?

9 A Very similar. Again, the three usually go together. So at
10 each academy there's a block on street gangs. The conferences
11 all address street gangs, narcotics, and guns are usually all
12 taught together, so pretty much the same scenario as the other
13 two.

14 Q Have you ever given training to any other law enforcement
15 agents or officers?

16 A I have.

17 Q And what kind of training did you do?

18 A I worked for the University of Illinois Police Training
19 Institute teaching firefighters who were then being -- gaining
20 peace officer status to become arson investigators. So I
21 taught them criminal law, Fourth Amendment search and seizure,
22 things like that. I also teach at the ATF Academy in Glencoe,
23 Georgia, a couple times a year, a two-week block dealing with
24 operational planning, undercover buys, controlled buys.

25 I teach an undercover school -- a week-long undercover

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1 school to ATF agents -- younger ATF agents and also local law
2 enforcement agencies throughout the country. And then I also
3 have taught internationally for the Federal Law Enforcement
4 Training Center on firearms, firearms trafficking, firearms
5 identification.

6 Q Over the course of your 25 years-plus in law enforcement,
7 if you had to estimate, how many narcotics-related
8 investigations have you worked on?

9 A It's hard to put a number on it. A lot. Hundreds and
10 hundreds and hundreds. I couldn't estimate a specific number.
11 But it's -- I wouldn't say a thousand is out of the question.

12 Q And approximately how many of these cases were you the lead
13 agent or officer?

14 A I would estimate around 25 percent I would be the case
15 agent on, around that, if I had to guess.

16 Q What about narcotics investigations? How many of those
17 have you been involved with during your career in law
18 enforcement?

19 A It would be the same, hundreds and hundreds. I worked
20 undercover in narcotics with the State Police Task Force for
21 six or seven years, and that was based -- strictly narcotics
22 investigations. With the FBI, I dealt with narcotics
23 investigations as well as working undercover for the ATF, a big
24 bulk of it is narcotics investigations.

25 Q And, approximately, on how many of those were you the lead

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1 case agent or officer?

2 A Usually about the same, about 25 percent, I would say.

3 Q And, finally, related to street gang investigations,
4 approximately how many of those have you worked on?

5 A Most of our work with the narcotics and the firearms,
6 there's a street gang element involved in it, so it would be
7 the same.

8 Q Through your training and experience, would it be fair to
9 say that you're familiar with the general practices of
10 narcotics and firearm distribution in the Chicago area during
11 the course of 2014 to 2015?

12 A Yes.

13 Q And are you familiar with the pricing of narcotics and
14 firearms?

15 A Yes.

16 Q Are you familiar with the use of code words or other
17 methods to avoid detection by law enforcement?

18 A I am.

19 Q Are you familiar with the methods used to pay for drugs and
20 firearms?

21 A Yes.

22 Q Are you familiar with the methods used by street gangs in
23 trafficking drugs and firearms?

24 A Yes.

25 Q Are you familiar with the methods used to protect drugs and

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1 drug proceeds in the course of trafficking?

2 A Yes.

3 MR. VANDENBERG: At this point the United States moves
4 to tender Agent Karceski as an expert on drug and firearm
5 trafficking, as well as street gang involvement in that
6 trafficking.

7 THE COURT: Mr. Legutki?

8 MR. LEGUTKI: I will reserve for cross, Judge.

9 THE COURT: Okay. Very good. Thank you.

10 I should tell you, that was a note from my jury.

11 MR. VANDENBERG: Yes.

12 THE COURT: And when the lawyers come in from that
13 case, we will have to take a break because I have to deal with
14 the note.

15 MR. VANDENBERG: Yes, your Honor.

16 THE COURT: Okay. Great. Thank you.

17 BY MR. VANDENBERG:

18 Q Agent Karceski, are you familiar with the investigation of
19 the defendant, Ralph Garcia?

20 A I am.

21 Q What was your role in that investigation?

22 A I was the case agent on that case.

23 Q And broadly speaking, what were your duties as the case
24 agent?

25 A As the case agent you're main duties are -- you're almost

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1 like the quarterback of the team. You kind of dictate which
2 way the investigation is going. You control the informants.
3 You deal with the U.S. Attorney's office. You organize the
4 controlled buys, or the undercover buys, that sort of thing.

5 Q And was a confidential source, or CS, used during the
6 course of this investigation?

7 A Yes.

8 Q What was the role of the CS during the course of this
9 investigation, broadly speaking?

10 A The CS in this investigation recorded conversations,
11 recorded meetings, made controlled purchases. The overall
12 broader investigation introduced undercovers, that sort of
13 thing.

14 MR. LEGUTKI: I'm sorry. I didn't hear that last
15 sentence.

16 THE WITNESS: Introduced undercover agents. Not
17 specifically to Mr. Garcia, but I don't know, are we talking
18 about the overall investigation that was involved?

19 BY MR. VANDENBERG:

20 Q In regards to the investigation of Mr. Garcia, what did the
21 CS do?

22 A Okay. So recorded conversations, made controlled
23 purchases.

24 Q When you say "controlled purchases," what does that mean?

25 A A controlled purchase is where a confidential informant

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1 will make a purchase of either narcotics or firearms from a
2 specific person, and we will take precautions to make sure that
3 that's what's taking place. We will record the incident. We
4 will search the informant prior to and after the deal. We will
5 follow them to the location, follow them from the location,
6 that sort of thing.

7 Q Prior to his involvement in this investigation, was the CS
8 under investigation by law enforcement?

9 A The CS?

10 Q Yes.

11 A Yes.

12 Q Do you recall approximately when you approached the CS for
13 the purpose of cooperating?

14 A I believe it was in the spring of 2014.

15 Q And during the course of his cooperation, at any point was
16 the CS paid for his corporation?

17 A He was.

18 Q And approximately how much was he paid?

19 A Approximately \$59,000; that's inclusive of relocation
20 expenses and...

21 Q And was that \$59,000 just for the investigation of
22 Mr. Garcia, or did it involve any additional investigations?

23 A No, it involved a much larger investigation.

24 Q All right. I would like to draw your attention to
25 November 15, 2014. Do you recall that date?

Karceski - direct by Vandenberg

1 A I do.

2 Q Did you meet with the CS on that date?

3 A I did.

4 Q And did the CS make any phone calls in your presence?

5 A He did.

6 Q What number did the CS call?

7 MR. LEGUTKI: Excuse me. I didn't catch that first
8 date.

9 MR. VANDENBERG: November 15, 2014.

10 MR. LEGUTKI: Thank you.

11 BY MR. VANDENBERG:

12 Q What number was it that the CS called in your presence?

13 A The number was 815-641-1437.

14 Q And was this call recorded?

15 A It was.

16 Q How was the call recorded?

17 A Back then we were just -- we had a mini-tape recorder and
18 it just had an ear piece and it would literally be a subject
19 would put the phone up to their ear and it would record it on
20 the tape recorder.

21 Q Throughout the investigation of this, did you use any other
22 methods to record calls made by the CS?

23 A We did.

24 Q What sort of methods did you use?

25 A Technology improved and there's apps now available where we

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1 can download an app on to a defendant's phone and it will
2 automatically record the calls incoming and outgoing.

3 Q And was that method used in the course of this
4 investigation?

5 A It was.

6 MR. VANDENBERG: Permission to approach the witness,
7 your Honor?

8 THE COURT: Sure. I will give you all standing
9 permission to approach the witnesses, as long as you promise
10 not to hit them.

11 MR. VANDENBERG: Thank you, your Honor.

12 BY MR. VANDENBERG:

13 Q Let the record reflect that I'm handing the witness what
14 has been previously been marked for identification as
15 Government Exhibit 1. Do you recognize the Exhibit I just
16 handed you?

17 A I do.

18 Q What is it?

19 A It's a recording of the phone call on November 15, 2014.

20 Q And how are you able to recognize it as a recording of that
21 call?

22 A I had reviewed it prior to trial and I had
23 initialed -- initialed -- put my initials on it.

24 Q Have you listened to that recorded call?

25 A I have.

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1 Q Did you recognize the voices on the recorded call?

2 A I did.

3 Q Whose voices were you able to recognize?

4 A The confidential informant's and Mr. Garcia.

5 Q How were you able to identify the voice of the CS, the
6 confidential informant?

7 A I had worked with him for a number of years.

8 Q And how were you able to identify the voice of Ralph
9 Garcia?

10 A Over the course of the investigation I had heard numerous
11 recordings and observed videos of him, as well as I interviewed
12 him and took him into custody and heard him speak then.

13 Q Now, was that the conclusion of the investigation?

14 A It was.

15 Q Does Government Exhibit 1 contain a fair and accurate
16 recording of the recorded call the CS made to the defendant on
17 November 15, 2014?

18 A It does.

19 MR. VANDENBERG: The government moves to admit what is
20 marked as Government Exhibit 1.

21 MR. LEGUTKI: Your Honor, I'll object on foundation
22 and hearsay during the course of the recording. And, also, I
23 believe the Officer Karceski said going forward he had heard
24 Mr. Garcia's voice, but there's nothing previous to that time
25 to indicate that he was aware of who Mr. Garcia was.

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1 THE COURT: Okay. Do you want to spell out any
2 detail in your objections in the writings after the trial?

3 MR. LEGUTKI: That would be great. I appreciate that,
4 Judge. Yes, that would be appropriate.

5 THE COURT: I think you can just make your
6 contemporaneous objection. I will provisionally admit the
7 evidence so you can hear the testimony, subject to being
8 stricken later if Mr. Legutki turns out to be right in his
9 objections. All right?

10 MR. VANDENBERG: Yes, your Honor. If I may have just
11 a second.

12 THE COURT: Sure.

13 MR. VANDENBERG: Your Honor, if I may continue?

14 THE COURT: Oh, certainly.

15 BY MR. VANDENBERG:

16 Q Agent Karceski, broadly speaking, what was it that occurred
17 during the course of that call?

18 A I think it was just to set a up a meet. The informant
19 saying he was going to stop over and visit Mr. Garcia.

20 Q What, if anything, did you do in preparation for that
21 meeting between the CS and the defendant?

22 A Again, what we normally do is I would search the informant.
23 If he was taking his own vehicle, I would search the
24 informant's vehicle to make sure there was nothing -- no
25 contraband.

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1 Q And just to be clear, with regards to what you normally do,
2 is that what you did in this case?

3 A Yes.

4 Q And what else did you do?

5 A Subsequently to searching him, I would place and activate
6 the recording devices, whether it would be on the informant or
7 inside the informant's vehicle.

8 Q And what did you do after you did that?

9 A Once we did that, then I would follow the informant from
10 the location we were meeting at to the location of the meet.

11 Q And do you recall where the location of the meet was in
12 this instance?

13 A I do.

14 Q And where was that?

15 A 702 Vista Lane, Joliet, Illinois.

16 Q And what was located at that address?

17 A That was Mr. Garcia's residence.

18 Q And how do you know that?

19 A Through law enforcement databases, as well as throughout
20 the case, conversations that took place there.

21 Q What did you do as you arrived in the vicinity of 702 Vista
22 Lane?

23 A The way it worked out, 702 was kind of a hard block to
24 surveil on. So my role would be to follow the informant from
25 the original meet location until he was turning onto Vista

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1 Lane. We would have another agent or officer already placed on
2 Vista Lane to observe once the informant pulled on to the
3 block. I then -- in this case, there was a Catholic school
4 across the street, and I would park on the other side of the
5 Catholic school, so I could hear what was going on, but not be
6 seen.

7 Q And how were you able to hear what was going on?

8 A The devices we use, you are able to hear in real time
9 transmitting from inside the vehicle or on the confidential
10 informant.

11 Q Okay. So what did you do when that meeting ended?

12 A Once the meeting was over, I was in a position as the
13 informant would leave Vista Lane, I would then -- the other
14 agent would tell me he was leaving Vista Lane. I would then
15 get behind and follow the informant back to the original meet
16 location.

17 Q When you arrived at that original location, what did you
18 do?

19 A Again, I would shut off the recordings. Again search the
20 confidential informant and the vehicle.

21 Q And when you searched the confidential informant and the
22 vehicle, did you find anything?

23 A No.

24 Q What did you do with the recording device at that time?

25 A The recording device would be secured in my vehicle, later

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1 driven to our office, and then I would download it and place it
2 on a disk, which was then placed into evidence.

3 THE COURT: We don't have defense counsel yet, so you
4 can keep on going.

5 MR. VANDENBERG: Yes, your Honor.

6 THE COURT: Thank you.

7 BY MR. VANDENBERG:

8 Q Let the record reflect that I'm approaching the witness
9 with what has been previously marked as Government Exhibit 2
10 and Government Exhibit 2 Transcript.

11 Do you recognize Government Exhibit 2, the disk that I
12 handed you?

13 A I do.

14 Q And what is it?

15 A It appears to be a recording of the meet on November 15th
16 between the confidential informant and Mr. Garcia.

17 Q And how are you able to recognize it as such?

18 A Again, I reviewed it prior to trial and I initialed the
19 disk.

20 Q Have you watched that recording?

21 A I did.

22 Q Did you recognize the voices on the recording -- on the
23 recording?

24 A I did.

25 Q And whose voices were those?

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1 A Again, it was the confidential informant and Mr. Garcia.

2 Q Does Government Exhibit 2 contain a fair and accurate
3 recording between the CS and the defendant on November 15,
4 2014?

5 A It does.

6 Q Have you reviewed the Government Exhibit 2 Transcript while
7 watching Government Exhibit 2?

8 A I did.

9 Q And did you assign the speaker designations for Government
10 Exhibit 2 Transcript?

11 A I did.

12 MR. LEGUTKI: Your Honor, objection. We clarified
13 this in pretrial regarding the transcripts and the actual
14 tapes, what they say. Your Honor made a finding that he would
15 follow the jury instruction. I am just making an objection for
16 the record in case this goes somewhere else.

17 THE COURT: Would you like me to give you a standing
18 objection on the transcripts?

19 MR. LEGUTKI: Yes, sir.

20 THE COURT: The standing objection will be that the
21 transcripts from the exhibit list here says they're
22 demonstrative, which is consistent with the rules. And as I
23 said before, I will just read myself the same instruction I
24 read my jury last week about how to handle these, and we will
25 just give you a standing objection to all of the transcripts on

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1 that basis.

2 MR. VANDENBERG: Sorry, your Honor. If I may address
3 that briefly. In the exhibit list we did list it as
4 demonstrative. However, we did discuss with defense counsel
5 prior to trial if they would be okay with it being entered into
6 evidence, with the understanding, of course, that the evidence
7 was -- the best evidence was the recording itself, and they
8 indicated at that time that they were willing to do that.

9 MR. LEGUTKI: And that is absolutely correct, sir, but
10 I just wanted to make a record.

11 THE COURT: Perfect. I will just treat it like I tell
12 my juries to treat it. Very good.

13 MR. LEGUTKI: Thank you, sir.

14 THE COURT: Thank you.

15 BY MR. VANDENBERG:

16 Q In that Government Exhibit 2 transcript, does the
17 designation "CS" refer to when the CS was speaking?

18 A It does.

19 Q And does the designation "Garcia" refer to -- accurately
20 reflect portions of the meeting where the defendant was
21 speaking?

22 A It does.

23 MR. VANDENBERG: At this point, your Honor, subject to
24 the standing objection, the government would move to admit
25 Government Exhibit 2 and the Government Exhibit 2 transcript.

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1 THE COURT: Okay. And do you want a standing
2 objection as well on the witness's identification of Mr. Garcia
3 on the same grounds you raised the first time?

4 MR. LEGUTKI: Yes, sir. That would apply to this one
5 and all of the other transcripts and videos and audio that will
6 come in. Yes, sir.

7 THE COURT: I was just assuming. I'm looking at my
8 list here, it looks like we are going to have a lot of the
9 same. So if I give you a standing objection here, I can save
10 you some time there, too.

11 So with that -- are you going to play -- you're not
12 going to play 1, but you're going to play 2.

13 How long is 2?

14 MR. VANDENBERG: 2 goes on for a fair amount.

15 THE COURT: How many minutes is a fair amount?

16 MR. VANDENBERG: I think it was about a 15, 20-minute
17 meeting. We don't intend to play all of it that.

18 THE COURT: How much do you intend to play?

19 MR. VANDENBERG: I would say about ten minutes of it,
20 maybe.

21 THE COURT: Okay. Let me ask you this. I am
22 expecting -- and there they are. The next door opened and it's
23 defense counsel. So let me ask you this. So I have got a jury
24 note here, and it may take -- the question for counsel is do we
25 want to do our lunch break now, or do you want to take half an

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1 hour, because I think it's probably going to be half an hour
2 before I can get back to you guys. If you want to take a lunch
3 break now, you can take a full hour. I just don't know how you
4 guys feel about -- we will take a break in the afternoon for
5 long enough to get some more nourishment, too, if this turns
6 out too early for lunch. But if you take a whole hour, then I
7 promise I won't hold you up.

8 MR. LEGUTKI: Whatever is best for the Court is fine
9 with me.

10 THE COURT: Well, yeah. It's going to take probably
11 half hour, an hour to get through the next bit I have for this
12 trial. So why don't I say we will resume at 12:15, and we will
13 call this an early lunch break, but I will give you more than
14 ten minutes in the afternoon to refresh yourselves, if you need
15 to. So 12:15, we will see you then.

16 MR. LEGUTKI: Can we leave our stuff here?

17 THE COURT: It's very safe here. Okay. Thank you.
18 We'll see you at 12:15. Thank you, everybody.

19 MR. VANDENBERG: Should I retrieve the --

20 THE COURT: Yeah. You might as well. Yeah.

21 (Proceedings concluded.)

22 * * * * *

23 C E R T I F I C A T E

24 I certify that the foregoing is a correct transcript from
25 the record of proceedings in the above-entitled matter.

/s/Kristin M. Ashenhurst, CSR, RDR, CRR August 10, 2019
Kristin M. Ashenhurst, CSR, RDR, CRR Date
Federal Official Court Reporter